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Associated Students of Hastings College of the Law

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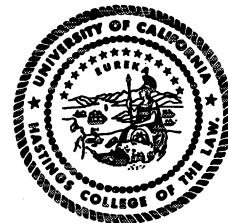
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"To deprive a man of his opinion is to rob posterity and the existing generation. If it be right, then they are deprived of exchanging error for truth. If it be wrong, they are deprived of illuminating the impression of truth as it collides with error."

— Justice Brandeis

Voir Dire

Hastings College of the Law



VOLUME 2, NUMBER 2

November 1, 1962



Professor John S. Bradway is greeted by Mr. Richard Nixon and Mr. Charles S. Rhyne at a luncheon of the American Bar Association honoring Professor Bradway.

Professor Bradway Honored by ABA

Hastings Professor John S. Bradway was honored at a luncheon in San Francisco's Bellevue Hotel August 8th by members of the American Bar Association's Section on Family Law. The luncheon was given in recognition of Mr. Bradway's work as Secretary of the Section since its inception in Los Angeles in 1958.

After remarks by Section Delegate Clarence Kolwyck and Section Chairman Carl Ingraham, Professor Bradway and the capacity crowd were addressed by two of the professor's former students at Duke University, Richard Nixon and Charles S. Rhyne, former President of the American Bar Association.

Mr. Nixon said of his ex-professor, "Through the years, for every hour this man spent making a living, he spent an hour in non-compensated activity for his community and fellow men. His example is one that makes us proud of being in the legal profession."

Asked by the VOIR DIRE his reactions to the luncheon, Professor Bradway said, in characteristic modesty, "I was overwhelmed. It was the first time in my life that four lawyers, one after another, stood up in public

and said nice things about me."

The Professor also mentioned that he once gave Richard Nixon a part time job while Mr. Nixon was working his way through Duke, and came to know the ex-Vice President quite well.

Professor Bradway stressed the importance of Family Law, stating that the American Bar Association is organized in Committees, special and standing, and for the most important areas of law, into Sections. The rising importance of saving the family unit from break-ups and disaster lead the A.B.A. to establish the Section on Family Law in 1958, at which time Professor Bradway became Secretary of the Section. He has served in that capacity until his recent resignation, occasioned in part by the time consuming preparation of his forthcoming book. The Section works on techniques designed to keep families together. A prime example of the constructive work which needs to be done in the field of Family Law, Professor Bradway states, is the Los Angeles conciliation court system, which uses a trained staff of marriage counselors and is credited with restoring over 15,000 area children to united homes in the last 7 years. Robert Benson

DEAN NAMES JESS STEINHART HASTINGS ALUMNUS OF YEAR

It was recently announced by Dean David E. Snodgrass that Jesse H. Steinhart, one of San Francisco's most distinguished attorneys, has been named "Hastings Alumnus of the Year." Steinhart was presented with a plaque signifying the award at the annual Hastings Alumni Association luncheon meeting in Los Angeles in conjunction with the State Bar convention. The presentation of the award was made by Presiding Justice A.F. Bray of the State District Court of Appeals and director of Hastings.

Steinhart, a member of the class of 1903, was an advisor to Chief Justice Earl Warren during his terms as State

Attorney General and Governor. Appointed to the University of California Board of Regents by Warren in 1950, he continued to serve in that position until last March. He is also an honorary alumnus of the School of Law of the University of California and was presented with an honorary LL.D degree last June at the University; Steinhart holds a similar degree from the University of San Francisco.

The 81 year old native of San Francisco has also achieved status as a civic leader. He is honorary vice-chairman of the B'nai B'rith Anti-Defamation League and former president of Mount Zion Hospital.

MOOT COURT STARTS TODAY

This year's Moot Court Competition is well underway, all problems having been distributed and oral arguments about to begin. The Competition will be graced by the presence of such notables as Supreme Court Justices Raymond Peters, B. Rey Schauer, and Marshall McComb; federal judges A.J. Zirpoli and S.N. Barnes; San Francisco attorneys Nathan Cohn and James Martin MacInnis, just to mention a few of the illustrious members of the bench and bar who will join the members of the Hastings Moot Court on the bench of the Supreme Court of Hastings.

The general consensus of those who have observed this year's competition thus far, and who can recall the endeavors of bygone years, indicates that the spirit of the current participants exceeds that of any prior year. This is undoubtedly attributable to such factors as the quality of the participants themselves, the outstanding leadership of Chairman Stan Shulster in effecting a vastly improved Moot Court procedure, and the generosity of the donors of prizes for the winners of the Competition--the awards to be presented this year exceed by far anything presented in the past.

Madden on Ole Miss

Hastings professor J. Warren Madden was recently a guest speaker at a meeting of the Hastings Democratic Club. The former U.S. Court of Claims Judge and former Chairman of the N.L.R.B. spoke on the legal aspects of the case of James Meredith and the situation presented by his enrollment in the University of Mississippi. Professor Madden traced the history of the Negro's struggle for equality in education from its origins, enriching the discussion with his extensive knowledge of Constitutional Law and United States history.

Student interest in both the subject matter and the speaker was witnessed by an overflow attendance at the meeting.

See Y&S OFFICE For Student Work

The Youth and Student Office of the California State Employment Service is requesting that Hastings students who are interested in part-time work come to the Youth and Student Office to register. The office is located at 1450 Mission Street near 10th and the hours are 8 to 4:45 Monday through Friday. If this is your first visit, register by 4 p.m. The Y&S Office conducts a very vigorous publicity campaign to develop jobs for Hastings students. A number of good positions have already resulted from this publicity, the Y&S Office reports. So if you need part-time work, sign up at the Youth and Student Office as soon as possible. Be sure to renew your present application if you have not been in during September. Continue to keep your card active by reporting at least once monthly.

Other indispensable factors contributing to the success enjoyed this year include the whole-hearted cooperation on the part of the administration, Dean Sammis in particular, and the watchful and learned guidance of Moot Court Advisor Harold G. Pickering, who, in addition to his teaching duties has followed the program closely, guiding the novices through the maze of appellate procedure. The generous appropriation by the Student Council of funds enabling the student judges to accompany the judge and attorney of his round to dinner was more than appreciated by the members of the Moot Court Board.

The Moot Court Board extends an invitation to members of the student body, faculty, alumni, parents, relatives, friends, and the general public, to visit the courtroom during the oral arguments which run from the first of November to December 5. The afternoon round begins at 5:00 P.M. and the evening round at 8:00 P.M.

Bishop Pike: Ethics And The Law

Should a lawyer lie to the court? This question may come as a shock to law students who never considered the existence of such a possibility. Nevertheless, there are members of the practicing legal profession who openly espouse that it is not only necessary, but a duty of the lawyer to lie.

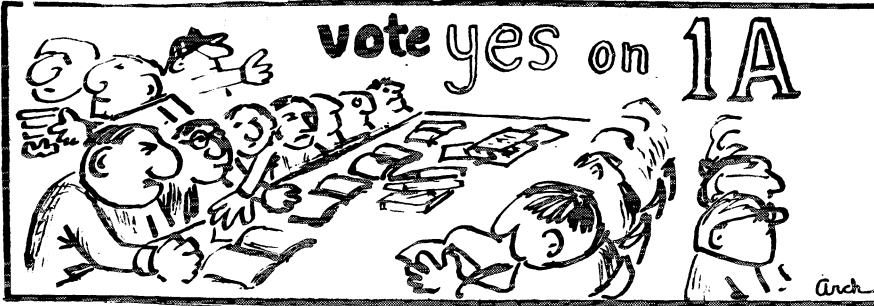
An attorney of the Massachusetts Bar, Charles P. Curtis, said, "I don't see why we should not come out roundly and say that one of the functions of a lawyer is to lie for his client; and on rare occasions, ...I believe it is." (4 Stanford L.R. 3, 1951)

In an interview with the Rt. Rev. James A. Pike, Episcopal Bishop of California (LL.B., University of Southern California; J.S.D., Yale University; admitted to the California Bar in 1936; assistant to the Reporter of the American Law Institute, 1937; attorney for the S.E.C., 1938-42; member of the bar of the United States Supreme Court), he stated that he could not conceive of lying. Generally, he said, the negative aspect is so heavy that the cause served would have to be tremendous. Only if a man is to be convicted of a crime the punishment for which being so terrible and the injustice so great, that the only way to spare him is to lie, then it may be justifiable. The condition must be extraordinary. The Bishop's advice is not to lie to the court. The struggle within one's self, he feels, is too trying. The lawyer is only an officer of the court, and not responsible for the ultimate fate of the client. He should not try to carry all of the burden, since judicial process transcends the individual. Even if a lawyer believes a client is right and wants to protect him, he should not lie for him. His interest as a person is at stake.

Bishop Pike believes that the relationship of the lawyer to the legal

Cont. on page four

The Editorial Viewpoint....



This is an appeal. During a lifetime we are called upon innumerable times to lend our support--physical, moral, and financial--to causes of every description. This request, directed to the student body and alumni mainly, and those readers-at-large on the periphery of our circulation incidentally, will take little time, effort, or money. Primarily this is an appeal to those qualified to vote to exercise their franchise; secondarily this is an entreaty to those aware of the problem to spread the gospel.

On June 5, 1962, the voters of California defeated a \$270 million bond issue which was to finance construction for California junior college, state college, and university systems, Hastings College of the Law included. The importance of this defeat was evidenced by the calling of the legislature to a special session, the result of which is Proposition 1A, to appear on the ballot of November 6.

Considering the problem narrowly, Hastings will suffer by a second defeat of this all-important issue. The physical expansion which is now taking place is essential to the future growth of our Law College. Our enrollment increases steadily each year--crowded conditions in the school are not conducive to academic and professional success. For the sake of Hastings, we must support Proposition 1A.

Viewing the situation broadly, if one believes that there exists a competition among the states, and more broadly, among nations, the importance of supporting education at every opportunity becomes obvious. California is conceded to be a leader in education in the United States. Graduates from our state systems have been able to command higher salaries than many out-of-state graduates--practical and persuasive proof of the benefits of a sound and strongly supported educational system. Looking beyond our state borders to our national boundaries, the future of the United States and our democratic philosophy depends largely upon the quality of future generations as compared to the quality of the progeny of those nations espousing antagonistic doctrines. Unless the youth of today is educated, and well educated, California among states and America among nations may find that the order of excellence has changed for the worse.

Therefore, in simple terms: education and strong support thereof is essential to us individually and collectively, both in the present and in the future, for both material improvement and progress in a more abstract sense. It behooves us as students and alumni of Hastings, as residents of California and citizens of the United States, to lend our affirmative support to Proposition 1A on November 6, and to urge all those within our influence to similar action. Higher education in California has been granted a reprieve--don't let the tragic moment of history, that of June 5th, be repeated.

Jack Levitan '63

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VOTE! November 6 VOTE!

From the Sutro Room....

ONE MAN'S FREEDOM

By Edward Bennett Williams
 (Atheneum, New York, 1962)

William F. Buckley, editor of NATIONAL REVIEW, introduces Mr. Williams in the following manner: "Meet the New Darrow, 'after whose health,' the prosecutor said, 'all criminals solicitously inquire before setting out on the evening's business.'" NATIONAL REVIEW has queried whether the law has yet been devised which cannot be broken, provided one can secure the assistance of Edward Bennett Williams. This gives rise to a fair inference that what Mr. Williams has to say may well be of interest to the law student, among others.

Buckley's article (NATIONAL REVIEW, July 31, 1962) offers excellent contrast when read in conjunction with the book. His value judgment, "I do not see that the book contributes anything at all," is of questionable merit in view of the noteworthy endorsement of such men as Dean Eugene V. Rostow, Yale Law School, who wrote the introduction to Williams' book.

The basic premise of the book is that when one man loses his freedom wrongfully, society and each individual member therein suffers. He doubts, as does Chief Justice Warren, that the Bill of Rights would pass Congress today. In fact, Williams speculates that it would not even get out of committee and onto the floor. This is ascribed to a national erosion of individual liberty, not through big government but "collective lethargy and a cavalier attitude of concern." He fears that the majority of Americans would trade away their rights under the Bill for a guarantee of total economic security until death, basing this fear on the results of polls of a sampling of our college students.

While Williams' chapter titles do not clearly indicate their content, he does cover such areas as the dire need for criminal defense attorneys, the proper role of Congressional investigative committees, wiretapping and pending legislation, the Fifth Amendment, and capital punishment. He proposes that federal criminal rules of procedure conform to the more liberal rules of civil procedure. He also proposes the repeal of the Connally Amendment and to submit our cases side by side with the Soviet Union to an international court of law.

Williams' technique, in giving life to each type of case discussed, is to illustrate with one of his own cases. Naturally, the version of the facts at times may differ from that of the Attorney General. Since Mr. Williams has handled cases for the late Senator McCarthy, James Hoffa, Frank Costello, Adam Clayton Powell, Jr., and Dave Beck, the reader is exposed to an angle of their cases not found in most newspaper accounts.

Williams' rhetoric is not always in step with the material he is covering. "I was greatly moved by the plight of this man." "My sense of fair play was so offended by all this. . . ." However, the reader's interest may be such that these may almost pass unnoticed. Though Williams leaves many citations to imagination and quotes cases which have been overruled or narrowed so as not to provide the authority for his point, the student, particularly in the second or third year, will enjoy the many Constitutional problems covered. Williams readily admits the very important governmental interest in national security and exhibits much the same process as Judge Madden, of weighing the individual's rights against the necessity of governmental suppression of the same.

An entertaining and informative book.

Crocker Price '63

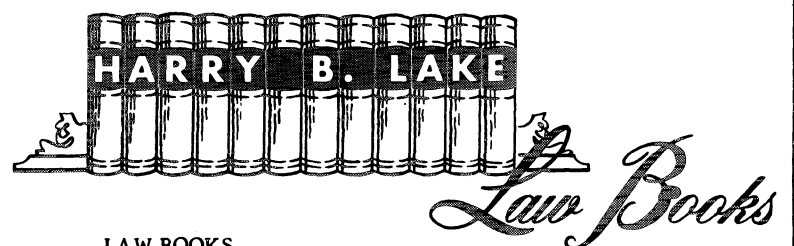
HWC Has Annual Tea

The Hastings Wives' Club began the school year with their Annual Fall Tea followed by a tour of the school's facilities.

Mr. Joseph G. Kennedy, Deputy Public Defender of San Francisco, was guest speaker at the Club's first meeting of the 1962-63 school year on October 4th. The topic of Mr. Kennedy's speech was; "You and Your Attorney Husband."

One hundred forty people attended the Club's Steak Barbecue at Golden Gate Park on October 6th. The money raised at this activity will be used to build up the Hastings Wives' Club's Loan Fund. The Club's next fund-raising function will be a Christmas Bazaar.

The Club extends an invitation to all wives of Hastings students to join its ranks.



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De Facto Segregation in S F Schools?

On October 2, 1962, the National Association for the Advancement of Colored People filed suit in the U.S. District Court against the San Francisco Board of Education and Harold Spears, Superintendent of Schools.

The complaint charged that a policy of twenty-six years, of sending students who are below the senior high level to schools nearest their homes, has brought segregation to nineteen schools in San Francisco; that "by failing to recognize any positive duty to desegregate, the School Board has violated the Fourteenth Amendment of the United States Constitution." The complaint alleged further that segregated education is inferior by reason of the Supreme Court's decision in *BROWN v. BOARD OF EDUCATION* (397 U.S. 483, 1954).

The plaintiff sought relief in asking the court to enjoin the school board from operating de facto racially segregated schools, and to order the board to effect positive racial integration patterns.

This suit is the outgrowth of a controversy that began on August 14, 1961. The San Francisco Chapter of the National Lawyers' Guild addressed a letter to the Board of Education stating that caucasians living in predominantly non-white neighborhoods were being given the option of sending their children to schools outside their neighborhood. The Superintendent replied that his office requires close examination of requests to go to schools outside the neighborhood and allows options only when difficult terrain, relative proximity of other schools, sparsity of student population, or safety factors justify the requests.

On January 23, 1962, two organizations, the Congress of Racial Equality (C.O.R.E.) and the Bay Area Human Relations Clearinghouse, asked the Board of Education "to recognize officially the existence of de facto segregated schools in San Francisco, to declare that such schools are educationally undesirable and to undertake a program for their elimination."

On June 19, 1962, the Superintendent, Harold Spears, presented a 25-page rebuttal to the charges of segregation in the school system. The essence of this report was that the schools do not keep a record of individual children by ethnic background. Dr. Spears pointed out that the Neighborhood School Policy was adopted on August 4, 1936, when the Negro population was under 5,000. Now the Negro population is over 74,000 and the Negro birth rate is almost twice that of whites.

There are 135 public schools in San Francisco, and their boundaries are determined by balancing the fluctuating population with availability of classrooms. Seventeen elementary schools and two junior high schools have more than 60% Negro students, while the total school population is only 20% Negro. Any imbalance cre-

ated results from the fact that the white population has decreased by 89,000, or 13%, while the non-white population has increased by 64,000, or 67%, in ten years.

To answer the charges that the 19

schools mentioned in the report were educationally unsound, Dr. Spears reported on the special programs being carried out to enrich the education of the culturally deprived. Smaller class size, additional counseling services, special materials, in-service training for teachers, and various Home-School-Community Cooperation programs to motivate and enrich the lives of pupils in the Western Addition and Hunters Point area have been adopted.

Dr. Spears stated that the Education Code does not speak of social adjustment as a purpose of the public schools and that if the Board were to attempt to eliminate schools where the children are predominantly of one race, the cost of bus transportation would be prohibitive. He dismissed the program as generally unsound because of the personal and educational difficulties which would be presented.

In September C.O.R.E. charged that the newly created Central Junior High School, to be located in the abandoned Lowell High School building, would be in fact segregated if it opened with a ratio of 60% Negroes to 40% whites, in a neighborhood only 30% Negro. C.O.R.E. claimed that the proposed balance in the school would destroy the racial balance of the Haight-Ashbury district, and that the neighborhood and the school would soon become overwhelmingly colored as white panic-selling of homes occurred.

When the School Superintendent stated there could be no satisfactory change, C.O.R.E. threatened a school boycott. The result of this was that the proposed school was not opened and the students were distributed to several other junior high schools by bus. On September 18, the Board of Education met at an open meeting which ended with the carrying of a motion authorizing a committee to report on the subject in April, 1963. C.O.R.E. then staged a protest sit-in until 7:00 a.m., and the NAACP initiated court proceedings.

There is a strong possibility that the ramifications of these issues will be far-reaching, extending well beyond the confines of the urban area of their origin.

Barry A. Mierbach '65

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An Open Letter From Professor Goble

(Hastings College was recently deprived of the services, advice and companionship of one of its most beloved faculty members, Professor George Goble, because of illness. The entire student body responded immediately to this deprivation, en masse and individually, and communicated wishes for a speedy recovery and return. For reasons stated in his letter below, Professor Goble has chosen our newspaper as the medium by which he hopes to reach his well-wishers.)

TO MY HASTINGS STUDENTS

Since it is impossible for me to communicate personally with each of you, I avail myself of the *VOIR DIRE* as a medium of expressing to all of you my heartfelt thanks for your generous gifts and "get well" cards. The FM-AM radio set and the converted gift certificates will be sources of pleasure for years to come, and the flowers, while perishable, never die. The manifestations of your friendship and good will have moved me deeply. They have added treasure to my storehouse of memories. I extend to each of you my warmest greetings.

George W. Goble

Glidden Decision Concerns Madden

On June 25, 1962, the Supreme Court of the United States announced the decision in *Glidden v. Zdanock*, 370 U.S. 530; 82 S.Ct. 1459; 8 L.Ed. 2d 671 (1962), which was of special interest to Professor Madden of the Hastings Faculty. Professor Madden had sat, by assignment of Chief Justice Warren, as a member of the United States Court of Appeals for the Second District, in New York. In one of the cases decided by that Court, in which he had written the opinion of the Court, the losing litigant appealed to the Supreme Court on the ground that Professor Madden, who was at that time a regular member of the United States Court of Claims, was not eligible to be assigned to the Court of Appeals for the Second District. The solution of the question involved research into the history of the United States Court of Claims since its creation by Congress in 1855. Justices Harlan, Brennan and Stewart, were of the opinion that the Court of Claims, from the year 1866, had been a court within the regular federal judicial system. Justice Clark and Chief Justice Warren were of the opinion that, in any event, Congress had, by a 1953 statute, given it regular status. Justices Douglas and Black dissented. Because of Justice Whitaker's retirement and Justice Frankfurter's illness, only seven Justices participated in the decision.

Keith Winsell '65

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HDC Takes Sides in Old Miss Fight

The Hastings Democratic Club held its first meeting of the school year on October 3rd and heard guest speaker Judge Warren Madden speak on the Supreme Court problem in Mississippi.

At the meeting a resolution was adopted denouncing the state of Mississippi and its University in particular for denying the rights of James Meredith. A committee was established, consisting of George Corey, Howard Leidel and Terrance Hallinan to take action on the resolution and as a result the following telegram was sent to the Associated Students of the University of Mississippi Law School:

The Supreme Court of our country has declared that James Meredith shall not be denied admittance to the University of Mississippi. As law students and citizens we have a duty to see that the law is obeyed, as human beings we have a duty to see that fundamental civil rights are observed. We urge you to do everything within your power to see that Mr. Meredith is accorded the equal rights and dignities that are guaranteed to him by our constitution.

Hastings Democratic Club
Hastings College of the Law,
San Francisco

This telegram was reprinted in an article in the San Francisco Examiner and brought many favorable comments as to the Club's action.

On October 10th the HDC heard from guest speaker State Senator Richard Richards. Senator Richards is opposing U.S. Senator Kuchel for his post in the Senate of the United States. Senator Kuchel is the Republican whip in the Senate.

The Club is currently setting up more speakers in the coming weeks which will include U.S. Senator Clair Engle who is the Club's Honorary President. Senator Engle is an alumnus of Hastings and is the other U.S. Senator from California.

Along with the speakers program the Club is taking an active part in the defeat of Proposition 24 which is being opposed by both Governor Pat Brown and Richard Nixon.

At the next business meeting of the HDC the club will discuss the establishment of a Club scholarship to the member with the highest average for the present school year.

The Hastings Democratic Club asks that more students take an active part in legislation and politics whether they are Republican, Democrats or Independents.

Crane Named Journal Advisor

Professor Judson A. Crane succeeds Professor George W. Goble as Faculty Advisor of the HASTINGS LAW JOURNAL. Professor Crane relinquished his two-peppercorn-a-year post as Faculty Advisor of the VOIR DIRE to take the new position. Professor Crane has been of great assistance during the formative period of our student newspaper, and it is with regret that the staff of the VOIR DIRE witnesses the loss of this helpful friend to that worthy publication, the HASTINGS LAW JOURNAL. Best of luck to you, Professor Crane, in your new undertaking.

ethics, cont.

process depends on the value system of the individual. But no matter to what value system the attorney is committed, his final loyalty is to the court and to the whole judicial process. The lawyer shows his responsibility toward society through the maintenance of the judicial process. At the same time under the advocacy system, he is cast in the role of giving his loyalty to the client. This is reconciled by a pragmatic decision which society has made, since the advocacy system allows for a fuller development of evidence to determine the truth.

The ethical problem in law, as in any profession, is the question of the individual's motivation. The rationalization which can be used to cover motivation is easy. The Code of Professional Ethics and the court are just the base on which the whole judicial process rests. What the individual lawyer does beyond the base in solving his ethical and moral problems will largely determine the course the judicial process will take.

Bishop Pike will have a book coming out in the spring on a related subject based on the Rosenthal lectures delivered at Northwestern University, ETHICS BEYOND LEGAL ETHICS, subtitled "The Religious and Ethical Meaning of the Lawyer's Vocation," published by Doubleday.

Dave Abe '65

FRATERNITY NEWS

DELTA THETA PHI

DELTA THETAPHI is now selecting pledges. As in the past, Traynor Senate has elected to rush on a personal invitation basis. There are no pledge activities which are open to the general student body. Any second or third year men interested in the Fraternity can leave his name in the DELTA THETA PHI mailbox in the student body office, or can contact personally a member of the Fraternity.

The prime objective of DELTA THETA PHI is to give its membership an opportunity to hear and meet members of the profession at luncheons scheduled throughout the year, and to afford our members an opportunity to gather and share their common interest in the study of law. In fulfillment of this objective, Traynor Senate heard San Francisco attorney Nathan Cohn discuss personal experiences in the trial of criminal and civil cases. In the furtherance of the objective of increasing communication among our members in matters pertaining to the study of law, informal discussion groups will meet during October and November.

A full program of guest speakers is scheduled for the balance of the year, and a wine-punch party is planned for early November.

PHI ALPHA DELTA

The "Most Outstanding Chapter" award for District II was accepted by Temple Chapter's President, Herb Smith, at the Phi Alpha Delta National Convention in Denver, Colorado, this past summer. In competition with the Hastings Chapter were the PAD Chapters at Boalt, Stanford and U.S.F.

PAD began the school year with an

orientation assembly for all freshman students. Following this was a "Brown Bag" at which PAD alumnus Dean David E. Snodgrass spoke on the "History of Hastings."

During the past month PAD's rushing functions have included a Beer Party in the Sky Blue Water Room of the Hamm's Brewery. Highlighting this event were both a magnificent view of the Bay Area and, of course, all the beer one could handle. Next PAD members and guests along with their women folk traveled north into the wine country for a Sunday full of golf, swimming, football and barbecued hamburgers.

To top off PAD's rushing program a gala cocktail party was given. Dean Snodgrass, Associate Dean Sammis, Professors Madden and Pickering, Judge Horn and other outstanding PAD alumni attended.

PHI DELTA PHI

Rush commenced on Saturday, September 29, with Phi Delta Phi's annual "Beer Bust" in Golden Gate Park. Beer drinking and football was the order of the day.

On Wednesday, October 10, a luncheon was held at Engler's Restaurant. Dick Johnson, 1960-61 Editor of the Hastings Law Journal and former Magister of Pomeroy Inn, Phi Delta Phi, informed the assemblage of his first year practicing with a large law firm. He believes that joining a large firm is most advantageous to a new attorney, being in some respects an apprenticeship.

Saturday night, October 13, a "B.Y.O.B." party was held for all brothers and guests. Climaxing Phi Alpha Delta's rushing functions was a Bid Banquet at the Seven Hills Restaurant on Thursday, October 18.

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